



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2022-0089; FRL- 9546-01-R1]

Air Plan Approval; Connecticut; Negative Declaration for the Oil and Gas Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. The revision provides the State's determination, via a negative declaration, that there are no facilities within its borders subject to EPA's 2016 Control Technique Guideline (CTG) for the oil and gas industry. The intended effect of this action is to approve this item into the Connecticut SIP. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2022-0089 at <https://www.regulations.gov>, or via email rackauskas.eric@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please

contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, tel. (617) 918-1628, email rackauskas.eric@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Table of Contents

- I. Background
- II. Summary of SIP Revision and EPA Analysis
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

I. Background and Purpose

On October 27, 2016, EPA published in the *Federal Register* the “Final Control Techniques Guidelines for the Oil and Natural Gas Industry” (81 FR 74798). The CTG provided information to state, local, and tribal air agencies to assist them in determining reasonably available control technology (RACT) for volatile organic compounds (VOC) emissions from select oil and natural gas industry emission sources. CAA section 182(b)(2)(A) requires that for ozone nonattainment areas classified as Moderate or above, states must revise their SIPs to include provisions to

implement RACT for each category of VOC sources covered by a CTG document. CAA section 184(b)(1)(B) extends the RACT obligation to all areas of states within the Ozone Transport Region (OTR). In addition to Connecticut being classified as nonattainment for the 2008 and 2015 ozone standards in both the Connecticut portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT area and Greater Connecticut areas, Connecticut is a member state of the OTR. States subject to RACT requirements are required to adopt controls that are at least as stringent as those found within the CTG either via the adoption of regulations, or by issuance of single source orders or permits that outline what the source is required to do to meet RACT. If no source for a particular CTG exists within a state, the state must submit as a SIP revision a negative declaration documenting this fact.

II. Summary of SIP Revision and EPA Analysis

On December 29, 2020, the Connecticut Department of Energy and Environmental Protection (DEEP) submitted a negative declaration for the 2016 Oil and Natural Gas Industry CTG.¹ The term “negative declaration” means that the state has explored whether any facilities subject to the applicability requirements of the CTG exist within the state and concluded that there are no such sources within its borders. As part of this determination, DEEP reviewed the inventory of sources for facilities covered by the CTGs, interviewed its field staff, and searched telephone directories and Internet Web pages, including other state government databases, to identify and evaluate sources that might meet the applicability requirements. Connecticut DEEP ultimately determined there are no sources covered by this CTG in the State. This is consistent with EPA's understanding of where sources subject to the Oil and Natural Gas Industry CTG are located.

EPA has historically allowed states to submit a negative declaration for a particular CTG category if the state finds that no sources exist in the state which would be subject to that CTG.

¹ This submittal was part of Connecticut's larger RACT and Nonattainment New Source Review (NNSR) Certification submittal, which will be acted upon separately and are not part of this rulemaking.

EPA has addressed the idea of negative declarations numerous times and for various NAAQS including in the General Preamble to the 1990 Amendments,² the 2006 RACT Q&A Memo,³ and the 2008 Ozone Implementation Rule.⁴ In each of these documents, EPA asserted that if no sources exist in the nonattainment area for a particular CTG category, the state would be allowed to submit a negative declaration SIP revision. This principle also applies to states in the OTR. EPA is not aware of any information indicating that a facility subject to the 2016 Oil and Natural Gas Industry CTG exists within the State of Connecticut and so we are proposing to approve Connecticut's negative declaration into the SIP.

III. Proposed Action

EPA is proposing to approve Connecticut's negative declaration for the 2016 Oil and Natural Gas Industry CTG. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

² "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (57 FR 13498 at 13512 (April 16, 1992)).

³ RACT Q's and A's – Reasonably Available Control Technology RACT: Questions and Answers" Memorandum from William T. Harnett, May 18, 2006.

⁴ "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," (80 FR 12263 at 12278 (March 6, 2015)).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct

costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 3, 2022.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

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